AN ACT CONCERNING LONG-TERM CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2021) (a) As used in this section and sections 2 to 12, inclusive, of this act, "long-term care facility" means a nursing home, as defined in section 19a-521 of the general statutes, a residential care home, as defined in section 19a-521 of the general statutes, a home health agency, as defined in section 19a-490 of the general statutes, an assisted living services agency, as defined in section 19a-490 of the general statutes, an intermediate care facility for individuals with intellectual disability, as described in 42 USC 1396d(d), except any such facility operated by a Department of Developmental Services' program subject to background checks pursuant to section 17a-227a of the general statutes, a chronic disease hospital, as defined in section 19a-550 of the general statutes, or an agency providing hospice care which is licensed to provide such care by the Department of Public Health or certified to provide such care pursuant to 42 USC 1395x.

(b) Each long-term care facility shall employ a full-time infection prevention and control specialist who shall be responsible for the
following:

(1) Ongoing training of all employees of the long-term care facility on infection prevention and control using multiple training methods, including, but not limited to, in-person training and the provision of written materials in English and Spanish;

(2) The inclusion of information regarding infection prevention and control in the documentation that the long-term care facility provides to residents regarding their rights while in the facility;

(3) Participation as a member of the long-term care facility's infection prevention and control committee; and

(4) The provision of training on infection prevention and control methods to supplemental or replacement staff of the long-term care facility in the event an infectious disease outbreak or other situation reduces the facility's staffing levels.

Sec. 2. (NEW) (Effective October 1, 2021) The administrative head of each long-term care facility shall participate in the development of the emergency plan of operations of the political subdivision of this state in which it is located which is required pursuant to the Intrastate Mutual Aid Compact made and entered into under section 28-22a of the general statutes.

Sec. 3. (NEW) (Effective October 1, 2021) (a) Not later than six months after the termination of a public health emergency declared by the Governor pursuant to section 19a-131a of the general statutes, (1) the Department of Public Health shall have and maintain at least a three-month stockpile of personal protective equipment, including, but not limited to, gowns, masks, full-face shields, goggles and disposable gloves as a barrier against infectious materials, for use by long-term care facilities, and (2) the administrative head of each long-term care facility shall ensure that the facility acquires from the department and maintains at least a three-month supply of personal protective equipment for its staff. The administrative head of each long-term care facility...
facility shall ensure that the personal protective equipment is of various sizes based on the needs of the facility's staff. The personal protective equipment (A) shall not be shared amongst the facility's staff, and (B) may only be reused in accordance with the strategies to optimize personal protective equipment supplies in health care settings published by the National Centers for Disease Control and Prevention. The administrative head of each long-term care facility shall hold quarterly fittings of his or her staff for N95 masks or higher rated masks certified by the National Institute for Occupational Safety and Health.

(b) On or before January 1, 2022, the Department of Emergency Management and Homeland Security, in consultation with the Department of Public Health, shall establish a process to evaluate, provide feedback on, approve and distribute personal protective equipment for use by long-term care facilities in a public health emergency.

Sec. 4. (NEW) (Effective October 1, 2021) The administrative head of each long-term care facility shall ensure that there is at least one staff member during each shift who is licensed or certified to start an intravenous line.

Sec. 5. (NEW) (Effective October 1, 2021) Each long-term care facility's infection prevention and control committee shall meet (1) at least monthly, and (2) during an outbreak of an infectious disease, daily, provided daily meetings do not cause a disruption to the operations of the facility, in which case the committee shall meet at least weekly. The prevention and control committee shall be responsible for establishing infection prevention and control protocols for the long-term care facility. Not less than biannually and after every outbreak of an infectious disease in the facility, the prevention and control committee shall evaluate the implementation and analyze the outcome of such protocols.

Sec. 6. (NEW) (Effective October 1, 2021) On or before January 1, 2022, every administrator and supervisor of a long-term care facility shall
complete the Nursing Home Infection Preventionist Training course produced by the National Centers for Disease Control and Prevention in collaboration with the Centers for Medicare and Medicaid Services.

Sec. 7. (NEW) (Effective October 1, 2021) Each long-term care facility shall, during an outbreak of an infectious disease, test staff and residents of the facility for the infectious disease at a frequency determined by the Department of Public Health as appropriate based on the circumstances surrounding the outbreak and the impact of testing on controlling the outbreak.

Sec. 8. (NEW) (Effective October 1, 2021) On or before January 1, 2022, the administrative head of each long-term care facility shall facilitate the establishment of a family council to encourage and support open communication between the facility and each resident's family members and friends. As used in this section, "family council" means an independent, self-determining group of the family members and friends of a long-term care facility's residents that is geared to meeting the needs and interests of the residents and their family members and friends.

Sec. 9. (NEW) (Effective October 1, 2021) (a) On or before January 1, 2022, the administrative head of each long-term care facility shall (1) ensure that each resident's care plan addresses (A) the resident's potential for isolation, ability to interact with family members and friends and risk for depression, (B) how the resident's social and emotional needs will be met, and (C) measures to ensure that the resident has regular opportunities for in-person and virtual visitation, (2) disclose the facility's visitation protocols, any changes to such protocols and any other information relevant to visitation in a form and manner that is easily accessible to residents and their family members and friends, (3) advise residents and their family members and friends of their right to seek redress with the Office of the Long-Term Care Ombudsman under section 17a-410 of the general statutes when the resident or a family member or friend of the resident believes the facility has not complied with its visitation protocols, and (4) establish a timeline by which the facility will ensure the safe and prompt
reinstatement of visitation following the termination of the public health emergency declared by the Governor in response to the COVID-19 pandemic and a program to monitor compliance with such timeline. As used in this section "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

(b) On or before January 1, 2021, the administrative head of each long-term care facility shall ensure that its staff is educated regarding (1) best practices for addressing the social, emotional and mental health needs of residents, and (2) all components of person-centered care.

Sec. 10. (NEW) (Effective October 1, 2021) On or before January 1, 2022, the Department of Public Health shall establish an essential caregiver program for implementation by each long-term care facility. The program shall (1) set forth visitation requirements for essential caregivers of long-term care facility residents, and (2) require the same infection prevention and control training and testing standards for an essential caregiver of a resident of the facility that are required for the facility's staff. As used in this section "essential caregiver" means a person deemed critical, as determined by a long-term care facility, to the daily care and emotional well-being of a resident of the facility.

Sec. 11. (Effective from passage) On or before October 1, 2021, the Public Health Preparedness Advisory Committee established pursuant to section 19a-131g of the general statutes shall amend the plan for emergency responses to a public health emergency prepared pursuant to said section to include a plan for emergency responses to a public health emergency in relation to long-term care facilities and providers of community-based services to residents of such facilities.

Sec. 12. (NEW) (Effective from passage) (a) On and after July 1, 2021, each long-term care facility shall permit a resident to use a communication device, including a cellular phone, tablet or computer, in his or her room, in accordance with the requirements established
under subsection (b) of this section, to remain connected with their family members and friends and to facilitate the participation of a resident's family caregiver as a member of the resident's care team.

(b) On or before June 30, 2021, the Commissioner of Public Health shall (1) establish requirements regarding the use of communication devices by long-term care facility residents under subsection (a) of this section to ensure the privacy of other long-term care facility residents, and (2) communicate such requirements to each long-term care facility.

Sec. 13. (NEW) (Effective October 1, 2021) (a) As used in this section, "nursing home" means (1) any chronic and convalescent nursing home or any rest home with nursing supervision that provides nursing supervision under a medical director twenty-four hours per day, or (2) any chronic and convalescent nursing home that provides skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic diseases, convalescent stages, acute diseases or injuries.

(b) On or before January 1, 2022, the Department of Public Health shall (1) establish minimum staffing level requirements for nursing homes of at least four and one-tenth hours of direct care per resident, including three and three-quarter hours of care by a registered nurse, fifty-four hundredth hours of care by a licensed practical nurse and two and eighty-one hundredth hours of care by a certified nurse's assistant, (2) modify staffing level requirements for social work and recreational staff of nursing homes such that the requirements are lower than the current requirements, as deemed appropriate by the Commissioner of Public Health, and (3) eliminate the distinction between a chronic and convalescent nursing home and a rest home, as defined in section 19a-490 of the general statutes, as such distinction relates to nursing supervision, for purposes of establishing a single, minimum direct staffing level requirement for all nursing homes.

(c) On and after January 1, 2022, each nursing home shall offer its staff the option to work twelve-hour shifts.
(d) The commissioner shall adopt regulations in accordance with the
provisions of chapter 54 of the general statutes that set forth nursing
home staffing level requirements to implement the provisions of this
section.

Sec. 14. (NEW) (Effective October 1, 2021) (a) For purposes of this
section: (1) "Ombudsman" means the Office of the Long-Term Care
Ombudsman established pursuant to section 17a-405 of the general
statutes; (2) "electronic monitoring" means the placement and use of an
electronic monitoring device by a nonverbal resident or his or her
resident representative in the resident's room or private living unit in
accordance with this section; (3) "electronic monitoring device" means a
camera or other device that captures, records or broadcasts audio, video,
or both, and may offer two-way communication over the Internet that
is placed in a nonverbal resident's room or private living unit and is
used to monitor the nonverbal resident or activities in the room or
private living unit; (4) "nursing home facility" has the same meaning as
provided in section 19a-490 of the general statutes; (5) "nonverbal
resident" means a resident of a nursing home facility who is unable to
verbally communicate due to physical or mental conditions, including,
but not limited to, Alzheimer's disease and dementia; and (6) "resident
representative" means (A) a court-appointed guardian, (B) a health care
representative appointed pursuant to section 19a-575a of the general
statutes, or (C) a person who is not an agent of the nursing home facility
and who is designated in a written document signed by the nonverbal
resident and included in the resident's records on file with the nursing
home facility.

(b) A nonverbal resident or his or her resident representative may
install an electronic monitoring device in the resident's room or private
living unit provided: (1) The purchase, installation, maintenance,
operation and removal of the device is at the expense of the resident, (2)
the resident and any roommate of the resident, or the respective resident
representatives, sign a written consent form pursuant to subsection (c)
of this section, (3) the resident or his or her resident representative
places a clear and conspicuous note on the door of the room or private

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living unit that the room or private living area is subject to electronic
monitoring, and (4) the consent form is filed with the nursing home
facility not less than seven days before installation of the electronic
monitoring device except as provided in subsection (e) of this section.

(c) No electronic monitoring device shall be installed in a nonverbal
resident's room or living unit unless the resident and any roommate of
the resident, or a resident representative, has signed a consent form that
includes, but is not limited to:

(1) (A) The signed consent of the nonverbal resident and any
roommate of the resident; or (B) the signed consent of a resident
representative of the nonverbal resident or roommate if the nonverbal
resident or roommate lacks the physical or mental capacity to sign the
form. If a resident representative signs the consent form, the form must
document the following:

(i) The date the nonverbal resident or any roommate was asked if the
residents or roommate wants electronic monitoring to be conducted;

(ii) Who was present when the nonverbal resident or roommate was
asked if he or she consented to electronic monitoring;

(iii) An acknowledgment that the nonverbal resident or roommate
did not affirmatively object to electronic monitoring; and

(iv) The source of the authority allowing the resident representative
of the nonverbal resident or roommate to sign the consent form on
behalf of the nonverbal roommate or resident.

(2) A waiver of liability for the nursing home facility for any breach
of privacy involving the nonverbal resident's use of an electronic
monitoring device, unless such breach of privacy occurred because of
unauthorized use of the device or a recording made by the device by
nursing home facility staff.

(3) The type of electronic monitoring device to be used.
(4) A list of conditions or restrictions that the nonverbal resident or any roommate of the resident may elect to place on the use of the electronic monitoring device, including, but not limited to: (A) Prohibiting audio recording, (B) prohibiting video recording, (C) prohibiting broadcasting of audio or video, (D) turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device for the duration of an exam or procedure by a health care professional, (E) turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device while the nonverbal resident or any roommate of the resident is dressing or bathing, and (F) turning off the electronic monitoring device for the duration of a visit with a spiritual advisor, ombudsman, attorney, financial planner, intimate partner or other visitor to the nonverbal resident or roommate of the resident.

(5) An acknowledgment that the nonverbal resident, roommate or the respective resident representative shall be responsible for operating the electronic monitoring device in accordance with the conditions and restrictions listed in subdivision (4) of this subsection unless the resident, roommate or the respective resident representative have signed a written agreement with the nursing home facility under which nursing home facility staff operate the electronic monitoring device for this purpose. Such agreement may contain a waiver of liability for the nursing home facility related to the operation of the device by nursing home facility staff.

(6) A statement of the circumstances under which a recording may be disseminated.

(7) A signature box for documenting that the nonverbal resident or roommate of the resident, or the respective resident representative, has consented to electronic monitoring or withdrawn consent.

(d) The ombudsman, within available appropriations, shall make available on the ombudsman's Internet web site a downloadable copy of a standard form containing all of the provisions required under
subsection (c) of this section. Nursing home facilities shall (1) make the consent form available to nonverbal residents and inform such residents and the respective resident representatives of their option to conduct electronic monitoring of their rooms or private living units, (2) maintain a copy of the consent form in the nonverbal resident's records, and (3) place a notice in a conspicuous place near the entry to the nursing home facility stating that some rooms and living areas may be subject to electronic monitoring.

(e) Notwithstanding subdivision (4) of subsection (b) of this section, a nonverbal resident or his or her resident representative may install an electronic monitoring device without submitting the consent form to a nursing home facility if: (1) The nonverbal resident or the resident representative (A) reasonably fears retaliation against the nonverbal resident by the nursing home facility for recording or reporting alleged abuse or neglect of the resident by nursing home facility staff, (B) submits a completed consent form to the ombudsman, and (C) submits a report to the ombudsman, the Commissioner of Social Services, the Commissioner of Public Health or police, with evidence from an electronic monitoring device that suspected abuse or neglect of the nonverbal resident has occurred; (2) (A) the nursing home facility has failed to respond for more than two business days to a written communication from the nonverbal resident or his or her resident representative about a concern that prompted the resident's desire for installation of an electronic monitoring device, and (B) the nonverbal resident or his or her resident representative has submitted a consent form to the ombudsman; or (3) (A) the nonverbal resident or his or her resident representative has already submitted a report to the ombudsman, Commissioner of Social Services, Commissioner of Public Health or police regarding concerns about the nonverbal resident's safety or well-being that prompted the resident's desire for electronic monitoring, and (B) the nonverbal resident or his or her resident representative has submitted a consent form to the ombudsman.

(f) If a nonverbal resident is conducting electronic monitoring and a new roommate moves into the room or living unit, the nonverbal
resident shall cease use of the electronic monitoring device unless and
until the new roommate signs the consent form and the nonverbal
resident or his or her resident representative files the completed form
with the roommate’s consent to electronic monitoring with the nursing
home facility. If any roommate of a nonverbal resident wishing to use
electronic monitoring refuses to sign the consent form, the nursing home
facility shall reasonably accommodate the nonverbal resident’s request
to move into a private room or a room with a roommate who has agreed
to consent to such monitoring, if available, not later than thirty days
after the request. The nonverbal resident requesting the accommodation
shall pay any difference in price if the new room is more costly than the
resident’s previous room.

(g) Subject to applicable rules of evidence and procedure, any video
or audio recording created through electronic monitoring under this
section may be admitted into evidence in a civil, criminal or
administrative proceeding.

This act shall take effect as follows and shall amend the following sections:

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Statement of Purpose:
To implement the recommendations of the Nursing Home and Assisted Living Oversight Working Group regarding long-term care facilities and make other revisions to the long-term care facility statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]